

Office of the Secretary of the Treasury

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as necessary and appropriate for Treasury Department operations.

Subpart B—Procedures To Collect Treasury Debts

§ 5.4 What notice will Treasury entities send to a debtor when collecting a Treasury debt?

(a) *Notice requirements.* Treasury entities shall aggressively collect Treasury debts. Treasury entities shall promptly send at least one written notice to a debtor informing the debtor of the consequences of failing to pay or otherwise resolve a Treasury debt. The notice(s) shall be sent to the debtor at the most current address of the debtor in the records of the Treasury entity collecting the debt. Generally, before starting the collection actions described in §§ 5.5 and 5.9 through 5.17 of this part, Treasury entities will send no more than two written notices to the debtor. The purpose of the notice(s) is to explain why the debt is owed, the amount of the debt, how a debtor may pay the debt or make alternate repayment arrangements, how a debtor may review documents related to the debt, how a debtor may dispute the debt, the collection remedies available to Treasury entities if the debtor refuses to pay the debt, and other consequences to the debtor if the debt is not paid. Except as otherwise provided in paragraph (b) of this section, the written notice(s) shall explain to the debtor:

(1) The nature and amount of the debt, and the facts giving rise to the debt;

(2) How interest, penalties, and administrative costs are added to the debt, the date by which payment should be made to avoid such charges, and that such assessments must be made unless excused in accordance with 31 CFR 901.9 (see § 5.5 of this part);

(3) The date by which payment should be made to avoid the enforced collection actions described in paragraph (a)(6) of this section;

(4) The Treasury entity's willingness to discuss alternative payment arrangements and how the debtor may enter into a written agreement to repay the debt under terms acceptable to the Treasury entity (see § 5.6 of this part);

(5) The name, address, and telephone number of a contact person or office within the Treasury entity;

(6) The Treasury entity's intention to enforce collection if the debtor fails to pay or otherwise resolve the debt, by taking one or more of the following actions:

(i) *Offset.* Offset the debtor's Federal payments, including income tax refunds, salary, certain benefit payments (such as Social Security), retirement, vendor, travel reimbursements and advances, and other Federal payments (see §§ 5.10 through 5.12 of this part);

(ii) *Private collection agency.* Refer the debt to a private collection agency (see § 5.15 of this part);

(iii) *Credit bureau reporting.* Report the debt to a credit bureau (see § 5.14 of this part);

(iv) *Administrative wage garnishment.* Garnish the debtor's wages through administrative wage garnishment (see § 5.13 of this part);

(v) *Litigation.* Refer the debt to the Department of Justice to initiate litigation to collect the debt (see § 5.16 of this part);

(vi) *Treasury Department's Financial Management Service.* Refer the debt to the Financial Management Service for collection (see § 5.9 of this part);

(7) That Treasury debts over 180 days delinquent must be referred to the Financial Management Service for the collection actions described in paragraph (a)(6) of this section (see § 5.9 of this part);

(8) How the debtor may inspect and copy records related to the debt;

(9) How the debtor may request a review of the Treasury entity's determination that the debtor owes a debt and present evidence that the debt is not delinquent or legally enforceable (see §§ 5.10(c) and 5.11(c) of this part);

(10) How a debtor may request a hearing if the Treasury entity intends to garnish the debtor's private sector (*i.e.*, non-Federal) wages (see § 5.13(a) of this part), including:

(i) The method and time period for requesting a hearing;

(ii) That the timely filing of a request for a hearing on or before the 15th business day following the date of

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the notice will stay the commencement of administrative wage garnishment, but not necessarily other collection procedures; and

(iii) The name and address of the office to which the request for a hearing should be sent.

(11) How a debtor who is a Federal employee subject to Federal salary offset may request a hearing (*see* §5.12(e) of this part), including:

(i) The method and time period for requesting a hearing;

(ii) That the timely filing of a request for a hearing on or before the 15th calendar day following receipt of the notice will stay the commencement of salary offset, but not necessarily other collection procedures;

(iii) The name and address of the office to which the request for a hearing should be sent;

(iv) That the Treasury entity will refer the debt to the debtor's employing agency or to the Financial Management Service to implement salary offset, unless the employee files a timely request for a hearing;

(v) That a final decision on the hearing, if requested, will be issued at the earliest practical date, but not later than 60 days after the filing of the request for a hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(vi) That any knowingly false or frivolous statements, representations, or evidence may subject the Federal employee to penalties under the False Claims Act (31 U.S.C. 3729–3731) or other applicable statutory authority, and criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or other applicable statutory authority;

(vii) That unless prohibited by contract or statute, amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(viii) That proceedings with respect to such debt are governed by 5 U.S.C. 5514 and 31 U.S.C. 3716;

(12) How the debtor may request a waiver of the debt, if applicable (*see, for example*, Treasury Directive 34–01 (Waiving Claims Against Treasury Employees for Erroneous Payments), set

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forth at Appendix A of this part and at <http://www.treas.gov/regs>);

(13) How the debtor's spouse may claim his or her share of a joint income tax refund by filing Form 8379 with the Internal Revenue Service (*see* <http://www.irs.gov>)

(14) How the debtor may exercise other statutory or regulatory rights and remedies available to the debtor;

(15) That certain debtors may be ineligible for Federal Government loans, guaranties and insurance (*see* 31 U.S.C. 3720B, 31 CFR 285.13, and §5.17(a) of this part);

(16) If applicable, the Treasury entity's intention to suspend or revoke licenses, permits or privileges (*see* §5.17(b) of this part); and

(17) That the debtor should advise the Treasury entity of a bankruptcy proceeding of the debtor or another person liable for the debt being collected.

(b) *Exceptions to notice requirements.* A Treasury entity may omit from a notice to a debtor one or more of the provisions contained in paragraphs (a)(6) through (a)(17) of this section if the Treasury entity, in consultation with its legal counsel, determines that any provision is not legally required given the collection remedies to be applied to a particular debt.

(c) *Respond to debtors; comply with FCCS.* Treasury entities should respond promptly to communications from debtors and comply with other FCCS provisions applicable to the administrative collection of debts. *See* 31 CFR part 901.

§5.5 How will Treasury entities add interest, penalty charges, and administrative costs to a Treasury debt?

(a) *Assessment and notice.* Treasury entities shall assess interest, penalties and administrative costs on Treasury debts in accordance with the provisions of 31 U.S.C. 3717 and 31 CFR 901.9, on Treasury debts. Interest shall be charged in accordance with the requirements of 31 U.S.C. 3717(a). Penalties shall accrue at the rate of 6% per year, or such other higher rate as authorized by law. Administrative costs,